

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3523 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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THAKORBHAI PATEL

Versus

NATVARBHAI RANCHHODBHAI PATEL

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Appearance:

MR KG VAKHARIA for Petitioners

MR JD AJMERA for Respondent No. 1

MR DP JOSHI for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/10/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

Challenge has been made by the petitioners to the judgment and order dated 16.4.1984 passed by the Tribunal constituted under the Gujarat Secondary Education Act, 1972, allowing Application No. 34 of 1984. By the said

judgment and order, the order passed by the petitioners terminating the services of the respondent No.1 was declared to be invalid and inoperative in law and the petitioners were directed to reinstate the respondent No.1 in service with backwages and pay him arrears of salary from the date of termination till date.

The facts are not in dispute, that the respondent No.1 was appointed by the petitioners as Hindi Teacher in the school on 10.6. 1963. From the date on which the respondent No.1 entered in the service of the petitioners till the date on which his services were terminated, that is, till 30.12.1983, he had continuously worked as teacher in the school. The trouble started when the respondent No.1 joined the Teachers' Union sometime in the year 1981. The Head Master had given him a notice dated 26.3.1981 about his rude behaviour and certain observations and statements made by him in connection with the Head Master. That matter appears to have been compromised. Thereafter by notice dated 14.8.1982 the respondent No.1 was called upon to produce the School Leaving Certificate or Secondary School Certificate in support of his birth date. Thus, after about 19 years of his appointment, the petitioners asked the respondent No.1 to produce evidence in support of his date of birth. The aforesaid notice was replied by the respondent No.1 wherein he stated that he had given his School Leaving Certificate at the time of his entry in the service and no other copy is available with him. It is further case of the respondent No.1 that he had never appeared in the SSC Examination at any time and as such there is no question of claiming from him and producing by him the Secondary School Certificate. He has passed Vith Standard Examination and had obtained school leaving certificate from the school concerned in which his date of birth has been shown to be 15.8.1938. The petitioners suspected that the respondent No.1 has impersonated himself for some other person.

Learned counsel for the petitioners is unable to satisfy the Court that the statement of respondent No.1 that he has passed Sahitya Ratna, Rashtrabhasa Ratna and Senior H.S.S.Examinations and had also passed Intermediate Examination of Ajmer Secondary Education Board, is incorrect. However, after holding an inquiry, under order dated 30.12.1983, services of the respondent No.1 were terminated. His termination was approved by the D.E.O.

The respondent No.1 has approached the Tribunal and after recording evidence of the parties, the learned Tribunal

has decided the matter in favour of the respondent No.1.

The case of the petitioners was that the certificate of the Intermediate Examination, Annexure Z-3 produced by the respondent No.1 was of the witness Natwarlal and that the respondent No.1 has stolen the same from the said Natwarlal. In support of their case that the respondent No.1 has produced a false certificate the petitioners have placed reliance on the evidence of the witness Natwarlal but the learned Tribunal has not placed reliance upon the said evidence. The learned Tribunal, after examining the evidence of the parties, has rightly not believed the case of the petitioners and the order of termination of the service of the respondent No.1 was held to be invalid.

During the course of the arguments, on the query of the Court as to why action has been taken against the respondent No.1 after about 19 years of his entering in service, the learned counsel for the petitioners is unable to give any satisfactory reply to this Court. The learned Tribunal has elaborately considered the matter and discussed each and every part of the evidence produced by the parties and thereafter it has reached to the conclusion that the case of impersonation as well as that the respondent No.1 has stolen the certificate of the witness, is not correct. This Court is not sitting as a Court of appeal over the decision of the Tribunal. This case is based upon appreciation of the evidence of the parties and this Court will not enter into the arena of reappraisal of the evidence. The learned counsel for the petitioners, after making submissions, is unable to point out any error apparent on the face of the order of the Tribunal. Not only this, but he has also failed to make out any case that the Tribunal has misread any part of the evidence of the parties or that the Tribunal has left out to consider any material evidence. This is a petition under Article 226 of the Constitution and interference with the order of the learned Tribunal by this Court is only permissible where the judgment is based on 'no evidence', that is, if it is a perverse judgment or any material piece of evidence has not been considered or that the Tribunal has misdirected itself on the question of law. Even if two views are possible on one set of evidence produced before the Tribunal still this Court will not interfere with the view taken by the learned Tribunal.

Taking into consideration the facts and circumstances of the case, I do not find any error apparent in the order of the learned Tribunal which calls for interference by

this Court in a petition under Article 226 of the Constitution of India. The Special Civil Application is dismissed. Rule is discharged. Interim relief stands vacated. No order as to costs.

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